Supreme Court, U.S.
FILED

06-813 AUG 10 2006

OFFICE OF THE CLERK

No.

In The

Supreme Court of the United States

LEONARD HAROLD WOODALL,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Petition For A Writ of Certiorari to the United States Supreme Court

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

1. Can a conviction under 18 U.S.C § 1001(a)(2), lying during an investigation, ~~be based purely~~ upon a defendant's assertion of innocence, with no other relevant fact being disputed by the defendant?

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PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit entered in the cause.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit is an unpublished, per curiam opinion (Appeal No. 05-15836-HH)(District Court No. 04-00472 CR-LSC-PWG)(Appendix 1 a-e). The Court of Appeals' denial of petitioner's Application for Rehearing and Application for Rehearing En Banc is unpublished (Appendix 2).

JURISDICTION

The Court of Appeals entered judgment on March 21, 2006. On April 11, 2006, petitioner filed an application for rehearing and for rehearing *en banc*. Petitioner's application for rehearing and rehearing en banc was denied by Order

dated May 12, 2006. This Court has jurisdiction to review the decisions of the Court of Appeals under 28 U.S.C. § 1254 (1). The Court of Appeals' jurisdiction was based upon 28 U.S.C. § 1291.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 1001 (a)(2) is reproduced at Appendix 3.

United State Constitution, Amendment Five provides, in pertinent part, that "No person shall . . . be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; . . . "

STATEMENT OF THE CASE

The defendant was an elected county commissioner for Cherokee County, Alabama. During his term an investi-

gation into public corruption was begun by the F.B.I. On various occasions the defendant was approached to answer questions posed to him by the investigating agents. The defendant voluntarily waived counsel and spoke with the agents on at least three occasions. (App. 4 a-b). He admitted that on at least two occasions one Mack Tillery, an agent selling insurance to the county, had given him Five Hundred Dollars that was represented by Tillery to be campaign contributions. (App. 5 a-i). Tillery's insurance policy had been approved by the county and renewed for several consecutive years prior to the moneys given by Tillery to Woodall that was made the subject of the bribery charges. On each occasion the policy was adopted by unanimous vote of the five-member commission. (App. 6).

Tillery testified before the Grand Jury that indicted Woodall as well as at Woodall's trial. In both venues Tillery appeared as a cooperating witness for the government in exchange for a reduced sentence on his plea to bribery related to the moneys given to Woodall. (App. 7). On each occasion that Tillery testified he stated that he had always represented

to Woodall that the moneys were campaign contributions. (App. 5 a-i). He further testified that Woodall did nothing to indicate to him that he (Woodall) believed that the moneys were intended to be anything other than campaign contributions. (App. 5a-i). Tillery testified that he never said anything differently to Woodall regarding the money, but learned from the prosecuting attorney that what he did was illegal. (emphasis added) (App. 8) It was Tillery's belief that giving money to an elected official is a crime that led to his plea and cooperation. (App. 9a, App. 8) At no time did Woodall deny receiving the moneys from Tillery, but maintained throughout that they were campaign contributions. This was the premise upon which Woodall defended himself against two counts of bribery and one count charging a violation of 18 U.S.C. § 1001 (a)(2) for denying that the moneys in question were a bribe. (App. 10).

Woodall was also asked about a Two Thousand Five Hundred Dollar contribution that he had received some five years previous. Woodall had received a check from one Lanny Young that was represented to be a campaign contri-

bution. (App. 11) Any bribery prosecution based upon this transaction would have been barred by the Statute of Limitations. Nonetheless, Woodall freely answered questions relating to this transaction and consistently admitted that he had received the money. He claimed that the money was given to him by Young as a campaign contribution. (App. 12a-f). No witness testified to this transaction to dispute Woodall's assertion.

Relative to Young, the government produced witnesses regarding a landfill franchise entered into years before between Young and Cherokee County. The commission had voted unanimously to allow the transfer of the landfill franchise from Young to another party inasmuch as it appeared that Young could not carry through with his obligations under the franchise agreement. However, Woodall testified that he had never met Lanny Young prior to the vote on the transfer, and that a fellow commissioner had called him to meet Young to receive the contribution after the vote on the transfer was taken. Further, Phillip Jordan, the Probate Judge, testified that at the time the contribution was given there were

no issues involving Young or the landfill pending before the commission. (App. 13a-e, 12a).

The Cherokee County Probate Judge, Phillip Jordan, also testifying for the government on an agreement for a reduced sentence for a guilty plea under the Hobbs Act (extortion), testified that he (Jordan) had received substantial sums of money from Young relating to the landfill deal in exchange for his promise to use his influence with the commission. He testified, however, that he had not had to use his influence on Young's behalf since the action taken on the landfill transaction was beneficial to the county in any event. (App. 14a-d). He further testified that Woodall knew nothing about his deal with Young. (App. 14b).

Nonetheless, the government took the position that this money was a bribe, which Woodall denied, and, again, the government prosecuted him for lying during the investigation by asserting that the money was not a bribe. The government produced no witness to dispute Woodall's assertion that it was represented by Young to be a campaign contribu-

tion.

While Woodall did not remember during questioning by the F.B.I. whether he had disclosed any of these amounts on his campaign disclosure form, unrefuted evidence was introduced that indicated he had not.

When questioned about his expenditure of the money received from Young, Woodall asserted that he had bought campaign signs with the money. (App. 15a-c). The government produced a witness that he had sold Woodall campaign signs during that time, but not in the amount of Twenty Five Hundred Dollars. (App. 16a-b, App. 17a-q). Again, Woodall was charged with lying during an investigation by asserting that he had used the Young contribution to purchase campaign signs. Despite the fact that the government produced witnesses to verify the truth of that statement, the government took the position that he did not spend the entire amount of the contribution on signs and, therefore, Woodall had committed a violation of 12 U.S.C. § 1001.

REASONS THE PETITION SHOULD BE GRANTED

This petition should be granted because the decision of the Eleventh Circuit Court of Appeals in this case represents the first time, insofar as counsel can determine, that a prosecution has been based upon 18 U.S.C. § 1001 (a)(2), where the defendant has denied no material fact that gives rise to the prosecution of an underlying offense being investigated (in this instance, bribery). Thus, this decision seriously implicates the rights of due process and self-incrimination embodied in the Fifth Amendment of the United States Constitution and presents an important federal question that should be settled by this Court.

The leading case in this area of law is Brogan v. United States, 522 U.S. 398 (1998). Prior to this decision, prosecutions based upon denials of wrongdoing, even when truthful facts were being denied, could not have been the basis for prosecution in many federal jurisdictions because of a judicially recognized "exculpatory no" doctrine. The Brogan decision abrogated the exculpatory no doctrine as not being

part of the literal text of the statute.

This case, however, extends the decision beyond the constitutional and statutory rationale intended by the Court in Brogan. Coincidentally, the accused in Brogan had denied receiving gifts that would have amounted to a violation of the law when, in fact, he had received the gifts being questioned. It was the denial of the receipt of gifts that led to the prosecution of Brogan under 18 U.S.C. § 1001 (a)(2). In Brogan, it was clear that the receipt of the gifts would have been in violation of the law. The denial was of a material fact relevant to whether a criminal act had been committed in the first instance.

In the instant case, Woodall never denied receiving the moneys being questioned, but only disagreed on their purpose. The receipt of campaign contributions is not, in and of itself, a criminal act. Arguably, all campaign contributions are intended to reward or influence, both of which are elements under the bribery statute. Thus, if the connection between votes cast by elected officials and campaign contribu-

tions can be made the basis of a bribery investigation, the current case allows a question of purpose to be posed to the recipient with the result being either a confession of guilt or a prosecution for denial of guilt. This would be true irrespective of whether all other relevant and material facts were in agreement.

The essence of the study of law is the debate over the interrelation of facts and law. The instant case carries this healthy, creative social process into the criminal arena. Such a result, if allowed to stand, would subvert the right against self-incrimination afforded by the United States Constitution, Amendment Five, and deny due process in ways previously unknown.

Further, the public policy, legislative intent, and judicial economy served by encouraging voluntary cooperation during investigations will be seriously affected if the government is allowed to prosecute on the basis of disagreements over legal conclusions.

CONCLUSION

For the foregoing reasons the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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APPENDIX

Appendix 1

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 05 – 13836
Non-Argument Calendar

D.C. Docket No. 04-00472-CR-LSC-PWG

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEONARD H. WOODALL,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Alabama

(March 21, 2006)

Before TJOFLAT, BLACK and BARKETT, Circuit Judges

PER CURIAM:

Leonard Woodall appeals his convictions for corruptly accepting money, as an agent for a local government which received federal funds, with the intention of being influenced or rewarded in connection with the government business, in violation of 18 U.S.C.
§ 666(a)(1)(B) and (b); and knowingly and willfully making false statements and representations during the course of an investigation by federal agents, in violation of 18 U.S.C. § 10019(a)(2).

Woodall contends that the district court erred by granting the Government's motion in limine to exclude evidence that the Cherokee County Commission voted to renew the same insurance policy in 2005 after he was indicted on charges that related to the purchase or renewal of the insurance policy, even though he abstained from any participation on the question of the policy's renewal. Woodall asserts that the Government "posed several questions to witnesses that could easily have left the jury with the impression that, once the charged extortion and bribery were exposed, the policy was replaced." He submits that it was "critical" to his defense to show that "no influence or reward would have made sense in the context of the history of (his) votes on the insurance issue." Moreover, the precluded evidence would have shown that his support was not necessary for the policy's continued renewal.

We review for an abuse of discretion a district court's granting of a motion in limine. United States v. Thompson, 25 F.3d 1558, 1563 (11th Cir. 1994) "When employing this standard, we must affirm unless we find that the district court has made a clear error of judgment, or has applied the wrong legal standard. "United States v. Lyons, 403 F.3d 1248, 1255

(11th Cir.), cert. denied, 126 SA.Ct 732 (2005) (internal quotations and citation omitted.)

Among other things, 18 U.S.C. § 666(a)(1)(B) prohibits an agent of a local government, which receives federal funds, to "corruptly....accept [] or agree [] to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such...government...involving any thing of value $5,000 or more." In our view, the evidence Woodall sought to introduce was not relevant to the charges lodged against him and had the potential to confuse the jury; hence, the district court did not abuse its discretion by the Government's motion in limine. See Lyons, 403 F.3d at 1256 (finding no abuse of discretion where the evidence excluded was "exceedingly marginal" and may have confused the jury").

Woodall next contends the court's instruction to the jury regarding bribery was erroneous. According to Woodall, the instruction "removed the requisite showing of influence or reward by the prosecution" and allowed the jury to convict him "merely upon his admission that he accepted money." He insists that the Government should have been required to show that his official action was "in some manner affected" by the payments he received.

"We apply a deferential standard of review to a trial court's jury instructions." United States v. Puche, 350 F.3d 1137, 1148 (11th cir. 2003) "Under this standard, we will only reverse if we are left with a substantial and eradicable doubt as to whether the jury was properly guided in it's delib-

erations." Id. (internal quotations and citation omitted) As noted above § 666 prohibits an agent of local government, which receives federal funds, to "corruptly...accept or agree to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction. Or series of transactions of such...government... involving any thing of value of $5,000 or more."

We are satisfied that the court's jury instructions accurately stated the requirements of § 666. We therefore reject the challenge to the instructions, and turn to Woodall's final argument: that the evidence was insufficient to support a conviction on any count of the indictment.

According to Woodall, if Michael Tillery's testimony that he thought the payment to Woodall was a bribe was "removed from the record," the record would be "void of any evidence from which the jury could even draw inference of guilt." He also poses as an issue of first impression this question: "whether a prosecution for lying during an investigation can rest upon a difference of opinion between an accused and a prosecutor abut whether admitted conduct is illegal." He points out that he never contested any of the facts underlying the transactions that served as a basis for his indictment; he "merely" asserted that the payments he received were campaign contributions instead of bribes. Woodall also contends, regarding count 5, which alleged that he knowingly made a fraudulent statement during the curse of an investigation by federal agents, that the evidence provided by the Government "proved the truth of [his] assertion" and "it remains unclear...how this count was allowed to be submitted to the jury."

Appendix 1d

We review de novo whether the record contains sufficient evidence to support a jury's verdict. United States v. Harris 20 F.3d 445, 452 911th cir. 1994) In doing so, we consider the evidence in the light most favorable to the government, with all reasonable inferences and credibility choices made in its favor. Id. "It is not necessary that the evidence exclude every reasonable hypothesis of innocence or be wholly inconsistent with every conclusion except that of guilt, provided that a reasonable trier of fact could find that the evidence established guilt beyond a reasonable doubt." Id. "A conviction must be upheld unless a jury could not have found the defendant guilty under any reasonable construction of the evidence." United Sates v. Chastain, 198 F.3d 1338, 1351 (11th Cir. 1999).

As stated above, § 666 prohibits an agent of a local government, which receives federal funds, to "corruptly... accept[] or agree[] to accept, any thing of value from any person, intending to be influences or rewarded in connection with any business, transaction, or series of transactions of such...government...involving any thing of value of $5,000 or more."

Section 1001 (a) states in pertinent part:

> Except as otherwise provided in this section, who ever, in any matter within the jurisdiction of the ex ecutive, legislature, or judicial branch of the Government of the United states, knowingly and willfully:... (2) makes any materially false, fictitious, or fraudulent statement or representation;...shall be fined under this title or imprisoned not more than five years, or both.

18 U.S.C. 1001 (a) (1996). "Proof of five elements is essential to sustain a conviction under the false statement proscription of § 1001: (1) a statement, (2) falsity, (3) materiality, (4) specific intent, and (5) agency jurisdiction." United States v. Lange, 528 F2d 1280, 1287 (5th Cir. 1976) (citations omitted).

The record contains the testimony of the federal agent who interviewed Woodall. that testimony, considered in the light of the other evidence presented, was more than sufficient to permit a reasonable jury to convict Woodall of each of the offenses charged in this indictment.

For the foregoing reason, Woodall's convictions are due to be, and are,

AFFIRMED

Appendix 2

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 05-13836-HH

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

Versus

LEONARD H. WOODALL,

Defendant-Appellant.

- - - - - - - - - -

On Appeal from the United States District Court for the Northern District of Alabama

- - - - - - - - - -

Before: TJOFLAT, BLACK and BARKETT, Circuit Judges.

PER CURIAM:

The Petition(s) for Rehearing are DENIED and no Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure), the Petition(s) for Rehearing En Banc are DENIED.

ENTERED FOR THE COURT:
/s/Gerald Tjoflat
UNITED STATES CIRCUIT JUDGE

ORD-42
(6/95)

Appendix 3

18 U.S.C.A. § 1001

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
(2) makes any materially false, fictitious, or fraudulent statement or representation; or
(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years of, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both…

could get Mr. Tillery, is that what you said?

A. To send him to Mr. Tillery. There were notes taken. I am just saying that some of the things when we, you know, at the end of the interview we get together and sort of review and, you know, look at the notes and see what we left off and yes, some of those things do get added.

Q. Okay. Now, you have had four interviews that you have described to the ladies and gentlemen of the jury with Mr. Woodall, and I have been supplied those 302s and I have been, and I have been sup-

plied your handwritten
12 notes on the interview June — pre
sumably June the 25th.
13 Do you have other handwritten notes
from which you
14 produced 302s with respect to Mr.
Woodall?
15 A. Not that I know of, no, I
don't.
16 Q. Okay. So then the fact would be
that you took
17 handwritten notes on one occasion?
18 A. You mean as far as that inter
view is concerned.
19 Q. As far as Mr. Woodall's inter
views are concerned?
20 A. You are talking about the four
interviews?
21 Q. Yes, sir.
22 A. I would say I probably did
take notes on the
23 others.

Appendix 4b

Q. Do you know where they are?
A. They should have been turned over, I guess. Are

Q. And what did you say to him when you gave him the money this second time?
A. I told him I was giving it to him as a campaign contribution.
Q. What did you intend that money to be when you -- from your standpoint, when you handed it to him?
MR. JOHNSON: Your Honor, I object to his intent. It's immaterial what his intent was.
MR. MEADOWS: I think he can testify, Your Honor, what he intended the purpose of that money to be when he handed it over.
THE COURT: All right. I'm going

to overrule the
13 objection. I think he has already answered his question
14 so I am going to overrule the objection anyway.
15 Q. (By Mr. Meadows) You can answer the question.
16 What did you intend it to be when you gave him the
17 money?
18 A. It was a bribe.
19 Q. Now, I want to direct your attention later in
20 2004 and ask if you were paid a visit on June the 25th by
21 the FBI?
22 A. I am not sure about the date, but it was on
23 Friday.
24 Q. And did they tell you some of the evidence they
25 had at that time —

you the money to do it with?
A. Well, I did what he told me to do. I gave the money to Harold.
Q. You didn't question anything?
A. No, sir.
Q. Now, we have already established in previous testimony that Mr. Woodall didn't know this money was coming from Mr. Williams, so when it got to him, what did you tell him this was for?
A. I told him it was for a campaign contribution.
Q. Okay. So you are handing money to someone who is an elected official and saying here is a campaign contribution, right?

Appendix 5c

A. Yes, sir.
Q. Now, is there anything that you, that the ladies and gentlemen of the jury can see or hear that would suggest that it was not?
A. Suggest that it's not?
Q. That it was not a campaign contribution?
A. Well, I knew it wasn't, but again, that's what I told him it was, a campaign contribution.
Q. You knew it wasn't. How did you know it wasn't?
A. Well, how did I know it?
Q. Yes, sir.
A. I knew in my heart that I shouldn't have done it

A. I gave it to him as a campaign contribution.

Q. Were you — have you ever described it in sworn testimony in any way other than it was a campaign contribution?

A. No, sir.

Q. And did you testify before the grand jury that indicted Mr. Woodall in that regard?

A. Yes, sir.

Q. And in every instance where you were asked a question, what did you tell Mr. Woodall when you gave it to him, did you say, I told him it was a campaign contribution?

A. Is that the question?

Q. Yes, sir.
A. Yes, sir.
Q. And did you tell the grand jury that indicted Mr. Woodall that I don't know any — or something to this effect, I don't know any way he would have known any differently unless he talked to Mr. Williams and Mr. Williams told him differently?
A. I don't know.
Q. You don't recall whether --
A. No, sir.
Q. I will see if I can find it for you.
I am going to show you --

not a campaign contribution, you answered, not to me he didn't?

A. That's true.

Q. Okay. So Mr. Woodall didn't do or say anything to suggest to you that he shared your idea then about this being a bribe, did he?

A. No, sir.

Q. And then he went on and said, followed up with the question or intimate in any fashion to you that he shared your belief about this, and you said what? That would be this answer here.

A. I didn't say anything. Is that the answer?

Q. Well, I think the word is he but

you will have to
14 read it into the — --
15 A. He didn't say -- he didn't say anything.
16 Q. And the, he there would be Mr. Woodall, right?
17 A. Yes, sir.
18 Q. So you give him the money and he didn't say
19 anything and at this point you have established before the
20 grand jury in sworn testimony under oath that Mr. Woodall
21 did nothing, said nothing, made no gesture, no furtive
22 gestures or anything else that would indicate to you that
23 he did not believe this was a campaign contribution?
24 A. Yes, sir.
25 Q. Then you go on and finish it by saying -- the

second, if you start right here. And then finish it down here, if you would.

A. In other words, I gave him the money and I said this is a campaign contribution. He just took the money and put it in his pocket.

Q. And walked away?

A. Yes, sir.

Q. And he didn't say anything. Didn't you follow it up by saying Mr. Woodall didn't say anything?

A. Yes, sir.

Q. Okay.

A. Yes, sir.

MR. JOHNSON: All right. I think that's all I have. Thank you, sir.

MR. MEADOWS: No further questions, Your Honor.

THE COURT: All right. You can step down.

Call your next witness.

MR. MEADOWS: Ed. Sims.

Your Honor, may we approach.

THE COURT: You can.

(Sidebar off the record.)

(Open court.)

MR. JOHNSON: Ladies and gentlemen, what we are going to do is we are going to break for lunch. It's a quarter to 12:00 and I know y'all would probably like to

Q. Did you get any money — first of all, was insurance maintained with Insurance Facilities for the years 2000, 2001, 2002, 2003 and 2004, to your knowledge?

A. I believe that's correct

Q. Do you remember how many years you got money in $5,000 amounts from Mr. Williams?

A. I believe it was three years

Q. Did you get any money the first year or do you remember?

A. I believe it was. The first year, I believe, was one of the years that I got some money.

Q. How did he pay you?

A. Cash

Q. Where did he pay you?
A. It was sent --- or I got it from a third party.
I never saw Mr. Williams with that transaction took place.
Q. But you knew what it was for?
A. I was told what it was for, yes, sir
Q. And you knew it was in connection with your
influence; is that correct? You will have to say yes or
no.
A. Well, I knew it was for the fact that the county
had selected Insurance Facilities as to provide coverage
to the county. I mean, on that first occasion there was
not any kind of prearranged agreement or any discussion of

illegal, then you can't benefit from that agreement with the government, can you?

A. No, sir.

Q. Okay. Nonetheless, you stead fastly maintained to the grand jury that I never told Mr. Woodall anything except that this is a campaign con tribution; is that true?

A. Yes, sir.

Q. And you also told the grand jury on every occasion that was appropriate that I never talked to Mr. Woodall in advance of giving him the money; is that true?

A. No, sir, I did call him in 2004.

Q. Okay. Let me point out then what

you said to the
14 grand jury. I will do that momentary
ily. But you don't
15 recall telling the grand jury that I
never talked to
16 Mr. Woodall in advance about this
money. I just gave it
17 to him?
18 A. I did in 2003.
19 Q. Oh?
20 A. I did talk to him.
21 Q. Okay. So the grand jury wouldn't
have known
22 which one you were talking about,
but that would be true
23 of one of them then?
24 A. In 2003.
25 Q. But not true of the other one?

are not supposed to give it to him for, yes, sir.

Q. Well, was there anything about this money that you handed to Mr. Woodall that would suggest that it was not for a campaign contribution, a perfectly legal transaction?

A. I am not for sure.

Q. Okay. Who told you that what you did was a bribe?

A. The prosecuting attorney.

Q. Okay. Now, when you were approached about this and all of this was explained to you either by the prosecuting attorney or someone else, that giving money to

an elected official is a crime, did you believe at that point that you had committed a crime?

A. Yes, sir.

Q. And is that why you pled guilty?

A. Yes, sir.

Q. And in your attempt to help yourself out of this dilemma that you found yourself in, was it explained to you that, well, now you can turn in same more people now and it won't be quite as bad on you?

A. Yes, sir.

Q. That was part of your agree ment, wasn't it —

A. To what?

Q. -- with the government? If you will turn in some

but I did.
Q. Okay. Well, you felt like you were doing an evil deed for Mr. Williams delivering this campaign contribution?
A. You could say it that way, sir.
Q. Well, if it was a bribe, it would be Mr. Williams bribing him, not you, wouldn't it?
A. I don't know. I was the one that handled the money.
Q. Well —
A. I am not an attorney.
Q. You are the only one though who has sat here and said, I think that it was a bribe. What makes you think that? I mean that's -- these Ladies

and gentlemen have a
15 right to know why this is being called a bribe?
16 A. The information that I read on the computer and
17 from what I gather, that when you give an elected official
18 money, it's considered a bribe.
19 Q. I am not sure you are reading some of the same
20 things that the rest of us are.
21 A. I am not an attorney.
22 Q. Oh, I am not talking about thQ law. Are you
23 saying that you think if you give an elected official
24 money, it is a bribe?
25 A. If you give it to someone for something that you

Appendix 10

AHM/JPM:Dec.2004
GJ#13

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ALABAMA

MIDDLE DIVISION

UTIED STATES OF AMERICA	)	
	)	
v.	)	CR-04-co-0472-M
	)	
LEONARD H. WOODALL	)	

INDICTMENT

COUNT ONE: (18 U.S.C. § 666(a)(1)(B) and (b))

The Grand Jury charges:

That in or about June, 2003, a more exact date being unknown, within the Northern District of Alabama, the defendant,

LEONARD H. WOODALL,

an elected official and agent of Cherokee County, Alabama, a local government, did knowingly, willfully, and corruptly

accept and agree to accept approximately $500.00 from one Michael D. Tillery, intending to be influenced and rewarded in connection with the renewal and maintaining of insurance business of Cherokee County involving things of value of $5,000.00 and more in a one-year period during which Cherokee County received benefits in excess of $10,000.00 under a Federal Program involving a grant, contract, subsidy, loan, guarantee, and other form of Federal assistance, in violation of Title 18, United States Code, Section 666(a)(1)(B) and (b).

COUNT TWO: (18 U.S.C. § 666(a)(1)(B) and (b))

The Grand Jury charges:

That in or about March, 2004, a more exact date being unknown, within the Northern District of Alabama, the defendant,

LEONARD H. WOODALL,

an elected official and agent of Cherokee County, Alabama, a local government, did knowingly, willfully, and corruptly

accept and agree to accept approximately $500.00 from one Michael D. Tillery, intending to be influenced and rewarded in connection with the renewal and maintaining of insurance business of Cherokee County involving things of value of $5,000.00 and more in a one-year period during which Cherokee County received benefits in excess of $10,000.00 under a Federal Program involving a grant, contract, subsidy, loan, guarantee, and other form of Federal assistance, in vio lation of Title 18, United States Code, Section 666(a)(1)(B) and (b).

COUNT THREE: (18 U.S.C. § 1001(a)(2))

The Grand Jury charges:

That on or about the 2nd day of August, 2004, within the Northern District of Alabama, the defendant,

LEONARD H. WOODALL

in a matter within the jurisdiction of the executive branch of the Government of the United States, did knowingly and

willfully make a materially false, fictitious, and fraudulent statement and representation, that is, during the course of an interview by the Federal Bureau of Investigation at the United States Attorney's Office, the defendant stated that certain payments of approximately $500.00 each that he had received from one Michael D. Tillery were campaign contributions and were not bribe or reward payments given to him by Tillery in exchange for his vote as a Cherokee County Commissioner to maintain County insurance coverage with Insurance Facilities, Inc., the defendant then well knowing that such statement and representation was materially false, fictitious, and fraudulent, in violation of Title 18, United States Code, Section 1001(a)(2).

COUNT FOUR: (18 U.S.C. § 1001(a)(2))

The Grand Jury charges:

That on or about the 2nd day of August, 2004, within the Northern District of Alabama, the defendant,

LEONARD H. WOODALL,

in a matter within the jurisdiction of the executive branch of the Government of the United States, did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation, that is, during the course of an interview by the Federal Bureau of Investigation at the United States Attorney's Office, the defendant stated that a payment of $2,500.00 that he had received from one Lanny Young by a check dated April 20, 1998, numbered 1057 and drawn on Young's Colonial Bank account was a campaign contribution, and was not a bribe or reward payment given to him by Young in connection with his vote as a Cherokee County Commissioner on certain issues related to the Three-Corners Landfill in Cherokee County, the defendant then well knowing that such statement and representation was materially false, fictitious, and fraudulent, in violation of Title 18, United States Code, Section 1001(a)(2).

COUNT FIVE: (18 U.S.C. § 1001(a)(2))

The Grand Jury charges:

That on or about the 27th day of May, 2004, within

the Northern District of Alabama, the defendant,

LEONARD H. WOODALL,

in a matter within the jurisdiction of the executive branch of the Government of the United States, did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation, that is, during the course of an interview by the Federal Bureau of Investigation, the defendant stated that he had put the cash derived in Count Four above, on his campaign disclosure form and had spent the proceeds for campaign signs, the defendant well knowing at the time that such statement and representation was materially false, fictitious, and fraudulent, in violation of Title 18, United States Code, section 1001(a)(2).

The Grand Jury re-alleges and incorporates by reference the allegations contained in Counts One and Two as though separately set out for each count, and in addition makes the following special findings for each separate count:

1. That the offenses specified in Counts One and Two

when considered together involved more than one bribe or corrupt reward.

2. That the offense involved a payment for the purpose of influencing or rewarding an elected official.

3. That the defendant abused a public or private trust in a manner that significantly facilitated the commission or concealment of the offense.

A TRUE BILL
/s/
FOREMAN OF THE GRAND JURY

ALICE H. MARTIN
United States Attorney
/s/
J. PATTON MEADOWS
Assistant United States Attorney

Q. Did he indicate who had replaced Mr. Abernathy as commissioner?

A. I think he said Mr. Earl Westbrook replaced Abernathy as commissioner.

Q. Now, after he had mentioned that he had heard that Jordan had done well on the Three Corners Landfill, did you shift subjects to ask him about his knowledge of any of the commissioners receiving any campaign contributions from Mr. Young?

A. Yes, I did. I asked if he knew of any other commissioners or any commissioners receiving any kind of campaign contributions and he at

this time stated he and
Ronnie Abernathy had received cam
paign contributions in
the amount of $2,500. He stated that
Mr. Young had
approached him and, you know, said
that — meet me out at
the Huddle House in Centre, Alabama,
and I will have a
campaign contribution for you.
Q. Did he indicate that he and Mr.
Abernathy both
received $2,500 in the form of a
check?
A. Yes. He stated that they both
received $2,500.
He did recall that his check that he
received was left
blank on the payee line, that he
cashed the check at
either his -- Regions State Bank or
Union State Bank, one

of the two, and that he took the cash proceeds and personally purchased campaign signs for his campaign, and

was any loose end of business left resolved with the deal on the County Commission after April the 13th, 1998?

A. No, sir.

Q. Now, a week later, tell us what happened with respect to Lanny Young, a week later being April 20th?

A. That's when Mr. Young, I believe, gave me a check for $2,500 for a campaign contribution.

Q. Now, tell the ladies and gentlemen of the jury how this came to be. I mean, did you call Mr. Young, did Mr. Young contact you or how did that happen?

A. Mr. Ronnie Abernathy called

me.

Q. Who is Ronnie Abernathy?

A. He was a commissioner at that time.

Q. All right. Now, was the land fill actually in Mr. Abernathy's district?

A. Yes, sir.

Q. And what did Mr. Abernathy contact you to say?

A. He called me asking me to meet-him and Mr. Young at the old Huddle House, which is Waffle King now in Centre, that he wanted to give us a campaign contribution.

Q. Okay. So it was Mr. Abernathy that called you?

A. Yes, sir.

Q. Now, were you — was Mr. Abernathy someone that you were familiar with?

25 A. He was on the County Commis
sion. Yes, sir, I was

familiar with him.

Q. All right. Did you -- was there anything odd about you begin contacted by another County Commissioner?

A. No, sir.

Q. Now you met at the -- what did you say, the Huddle House?

A. Huddle House. I believe it's Waffle King now. May have been Huddle House then, old Huddle House.

Q. Who did you meet with?

A. Mr. Abernathy and Mr. Young.

Q. And how long did y'all meet together?

A. They was there when I got there and sitting at a table when I went in. I think we —

they got a cup of
14 coffee or a glass of tea, five or ten minutes, sat there
15 and drank our coffee.
16 Q. Just the three of you?
17 A. Just the three of us.
18 Q. What did y'all talk about?
19 A. Just general, what was going on in the county and
20 the election. Actually we was both running at that time
21 for commissioner.
22 Q. You and Mr. Abernathy?
23 A. Me and Mr. Abernathy was up running. Our term
24 was up and we was running for re-election.
25 Q. And the check that has been identified here as

Appendix 12e

Government's Exhibit -Number 12, was that given to you at that meeting?

A. Yes, sir.

Q. Who gave it to you?

A. Mr. Lanny Young.

Q. At that time what was represented to be the purpose of this check?

A. He said, I want to help y'all on your campaign.

Q. So he gave you both one?

A. Yes, sir:

Q. All right. What did you do with yours?

A. I took it to Mr. Shaner's, Junior Shaner, S & W Auto Sales.

Q. And did what?

A. I gave him the check.

Q. Just gave it to him?
A. I gave him the check for — actu ally, I owed him $600 for signs and I gave -- I said I would pay you but I need to go cash this check. He said I will cash it for you. And so I handed it to him and that's where the check--
Q. Now, in terms of the decisions that you had to make on the sale of the landfill or transfer of the ownership, I guess, of the landfill from Lanny Young to the new buyer, do you remember what your considerations

A. The matter regarding a recent public hearing in connection with contract modifications of the Three Corners Landfill operated by AWDS was addressed. The contract change was accomplished as per attached by a motion by Harold Ross, seconded by Katherine Black to adopt a resolution as attached to authorize the chairman to sign the document. The motion passed 4 and 0. The amendment attached to the resolution allows service area expansion, establishes a change in county royalties and provides for residents to realize free disposal of

personal waste once each month. Additionally AWDS will provide a $3,000 per year scholarship to be awarded to the residents of the county by the commission and will provide computers to county schools as determined by the commission- as indicated in the attached letter.

Q. Okay. Now, is that the -- sorry, I was looking for something. Okay, right. Now, do you know if this December agreement was on the table back on April the 13th when the transfer was approved?

A. On the commission table?

Q. Yes, sir?

A. No, sir, it wasn't.

Q. On April the 13th, would it be

25 fair to say that

the only issue that any County Com missioner would have known regarding the landfill at that time was whether we are going to allow the transfer of ownership?

A. To my knowledge.

Q. Did this come up -- did Mr. Young come back -- did you know was he coming back in December to renegotiate?

A. No. I had some indication from him that he may want some additional changes, but I didn't know he was coming back that soon ~r when he was coming back.

Q. And when he came back, did he get all he wanted?

A. Did he get all he wanted?
Q. Yes, sir.
A. He didn't get what he asked for, no, sir.
Q. Right. And one of the reasons that he didn't get what he asked for was because, among others, Mr. Woodall said, well, we want to try to negotiate a better deal than this?
A. Sure. The whole commission wanted to.
Q. And when the commission set down, including Mr. Woodall, and said, Mr. Young, we are not going to give you everything that you want here, but we are willing to do this, that is what was resulted; is that correct?
A. Yes, sir, after much negotia

tion and much time
involved, this is the agreement that
was reached.

A. Absolutely not.
Q. Now, in these conversations that you had with Mr. Williams, did Harold Woodall know of your relationship with Mr. Williams as far as you know?
A. Not to my knowledge.
Q. You didn't tell him, did you?
A. No, sir.
Q. Now you must have had a pretty intimate -- or a pretty good relationship with Mr. Williams. Did he ever suggest to you that he knew or had ever spoken to Harold Woodall?
A. No, sir. Now he -- the day that I was sitting there with -- to his -- to Mr. Williams' office with the

FBI with the wire on, he did make an accusation that day, something that would be on that recording.

Q. That he had -- that he said something to the effect that he was going to take care of Harold Woodall?

A. Well, he kind of told me that, you know, he was paying out, paying me this much, splitting the commission, Mack was getting this much, he was having to give Mack this much for Woodall, that sort of thing. But that's my first and only.

Q. Okay. Did you ever use or attempt to use any of the influence that Mr. Williams might have been paying you for?

A. No, sir
Q. Did you ever have to use that influence on any County Commissioner to get a vote favorable either on the landfill situation or on the insurance situation?
A. No, sir
Q. NOW, Mr. Woodall says that he has never spoken with Mr. Williams outside the presentation that he might have made in a public meeting. Do you have any information that would dispute that?
A. No, sir
Q. You made a statement yesterday, and I don't Remember it, the context, I think it was in regard to the

Williams payments and how they got to you. You said that a third party gave you the money. Did I get that right?

A. You did

Q. That third party wasn't Harold Woodall, was it?

A. Absolutely not

Q. And you are confident that neither with regard to your hundred thousand dollar deal with Lanny Young or with your multi-thousand dollar deal with Mr. Williams that Mr. Woodall knew anything about that going on?

A. I don't have any knowledge of him knowing about it.

Q. And you would have made every effort to conceal it from Mr. Woodall just like you

would have made every

probably what I had done or cashed it, cashed it and put it in the bank.

Q. So you weren't specific about that because your memory wouldn't allow you to be?

A. Sir?

Q. You said you told him that you probably did something with it. You weren't sure at that time?

A. That's correct.

Q. Did he ask you what you had used the campaign contribution for?

A. Yes, sir.

Q. Did you tell him?

A. Yes, sir.

Q. What did you tell him?

A. I told him I would have probably spent it for

signs.
Q. Now, since the — had you had any reason to recall that specific date and that specific incident since 1998 and up until May, late May of 2004 other than the FBI coming to you to talk about it?
A. No, sir.
Q. All right. And did you -- what, if anything, did you do to try to reconstruct or help you reconstruct the trail of the check?
A. I called Union State Bank, be cause that's where I

statements or evidence or information you are talking about that has been presented in this courtroom that justifies and underlies that charge?

A. I may be a little confused with what you are —

MR. MEADOWS: Your Honor, I am going to object to that question —

THE COURT: Sustained.

MR. MEADOWS: — because he is asking the witness to evaluate all the evidence.

THE COURT: Sustained.

Q. (By Mr. Johnson) Count five says that on that meeting — no, it says on, I'm sorry, the 27th of may, that he had told you that he took a

$2,500 check and he spent it for campaign signs and he was lying when he said that?

A. Well —

MR. MEADOWS: Your Honor, I am going to object again to the reference to the indictment.

THE COURT: Sustained.

Q. (By Mr. Johnson) Do you know whether or not Mr. Woodall spent any or all of that money on campaign signs?

A. Well, we did do some additional interviews and we found out — well, we didn't get this from Mr. Woodall but we did interview Mr. Junior Shaner, who Mr. Woodall stated

that he was the one that went out and picked up the signs on behalf of Mr. Woodall from an individual named Slim Johnson who was in business at that time. He is no longer in business. We did interview Mr. Johnson and he was able to retrieve his records for the year 1998, during, and they showed Mr. Woodall having spent, I think, $160 for a total of three signs.

Q. Okay.

A. And he didn't recall being picked up by Mr. Shaner but could have been, so that's — but that occurred in the latter stages of the —

Q. All right. So that statement then

in May, since
13 the date of the indictment investigation has revealed —
14 A. I agree that part had nothing —
15 THE COURT: Hang on, hang on. My court reporter
16 can't take down two people talking at once. He was asking
17 a question so let's wait till he is through with his
18 question. okay?
19 Q. (By Mr. Johnson) Your investigation since the
20 date of the indictment reveals that there is truth in that
21 statement?
22 A. Make sure I understand the question again.
23 Q. The specific statement, yes, sir. The specific
24 statement, I took the $2,500 and paid f6r some political

signs has, subsequent to the indictment, been investigated

and determined to be a truthful statement?

MR. MEADOWS: I object to that, Your Honor.

THE COURT: Overruled.

A. Well, the record shows that he did, and this is after the fact, stated he had purchased, not what he is saying he purchased for $600 worth or what Mr. Shaner said he had gotten back from Mr. Woodall, that he gave him the $2,500. The record did not show that he spent $600 and it shows that it was $160.

Q. Does it matter to any investigation that the FBI was carrying on at the time whether he spent that money on

signs or not?
A. Well, we wanted to find out be cause Mr. Shaner came into the picture pretty late, I wanted to say we had talked to Ms. Pickelsimer and she had said that she had initially taken the check and cashed it, and after talking to Mr. Shaner, she said it could have been, she didn't know for sure, that he had maybe given her a check and that she had given the money back to him as opposed to giving it directly to Mr. Woodall. And another statement is true, Mr. Shaner is saying that he actually went out and picked up signs that Ms. Pickel simer had no knowledge of.

Q. Was this information that you could have gotten from Mr. Woodall before you indicted him?

same argument before, and to the extent any further witnesses address that as well, it will be the same rule.

I am going to deny the motion.

MR. JOHNSON: Thank you, sir.

THE COURT: All right. Defense has rested.

Government have any rebuttal testimony?

MR. MEADOWS: Yes, Your Honor, we call Mr. H. L. Johnson.

REBUTTAL WITNESS, H. L. JOHNSON, SWORN.

THE CLERK: Have a seat, sir. Please state your name for the record.

THE WITNESS: Henry Johnson.

THE CLERK: What city and state

do you live?

THE WITNESS: Ma'am?

THE CLERK: What city and state do you live?

THE WITNESS: Centre, Alabama.

DIRECT EXAMINATION

BY MR. MEADOWS:

Q. Mr. Johnson, you are going to really have to speak into that microphone because it's hard to hear in here. I would like to ask you, how long have you lived in Cherokee County?

A. Since 1968.

Q. And did you have some trade or profession you had during those years up until now?

A. Painting signs.
Q. And do you know the defendant in this case, Mr. Harold Woodall?
A. When I see him.
Q. Has he ever bought any signs from you?
A. Yes, according to my book, but I didn't remember him, you know, coming after them or anything when he asked me.
Q. I want to show you what has been marked for identification as Government's Exhibit 44 and ask you if this is an enlarged page from your receipt book?
A. Yes, sir.
Q. And is the date on it March the 16th, 1998?

A. 16th, I believe that's March, looks like the 3rd,
Yes, sir, 3rd and 16th.
Q. March the 16th?
A. Yes, sir.
Q. And who is the name for that particular job?
A. Harold Woodall.
Q. Did you sign it?
A. I signed it, yes, sir.
Q. What's your name as it's signed on that receipt?
A. It says Slim Johnson.
Q. Is that your nickname?
A. Yes, sir.

Q. How much was that Bill?
A. $160.
Q. Do you remember how many signs you did?
A. No, sir. I don't even remember painting them.
Q. All right. Did you ever get $600 for your signs from Harold Woodall?
A. Not that I know of.
Q. Would you remember a job like that?
A. Yes, sir, I believe I would.
Q. Did you ever get -- do you know a Mr. Junior Shaner?
A. No, sir.
Q. Have you ever met Mr. Shaner in your life, to your knowledge?

A. I may have but I don't know him, wouldn't know him if I seen him.
Q. And did Mr. Shaner ever give you $600 for some signs?
A. No, sir.
Q. You don't ever remember him coming by?
A. I don't recall, no, sir.
Q. And giving any money at all to you; is that right?
A. No.
MR. MEADOWS: No further questions. And we do

move to introduce Government's Exhibit Number 14.

MR. JOHNSON: I have no objection.

THE COURT: It will be admitted without objection.

Any 0 of this witness.

MR. JOHNSON: If it please the Court — .

MR. MEADOWS: I do, may I ask a couple more questions, Your Honor, I'm sorry.

THE COURT: Is that all right, Mickey?

MR. JOHNSON: Yeah.

CONTINUING DIRECT EXAMINATION.

BY MR. MEADOWS:

Q. I want to show you this receipt book that this -- is this the receipt book that you

gave to the agents when they came out to visit you?

A. Yes.

Q. And what year is that receipt book for?

A. '98, 1998.

Q. And. is this enlarged copy an exact blowup of this particular number 32 receipt in that pad?

A. Yes, sir.

Q. Did you keep all your transactions in that receipt book?

A. Yes, sir. I see here on the front it says '97 to '98. That's why some of them's out. But this starts

January 8th.
Q. Of what year?
A. Of '98.
Q. Would that pad be for '98?
A. Yes, sir.
MR. MEADOWS: Okay. Thank you. That's all I had. I'm sorry.
THE COURT: All right. Cross-examination?

CROSS-EXAMINATION

Q. Mr. Johnson, I will show you the original receipt book there that the government has blown up. Now, the amount that was paid for the signs that are represented by this invoice —
A. Yes, sir.
Q. — looks to me to be written in

after the — or
since that invoice was drawn up; is that correct?
A. Well, I believe this is my wire's writing. She would go through every year and be cause of this not being real plain, it was a carbon copy, she would go through and she would go over what it was where she could see for income tax purposes.
Q. Well, if this — is it possible there might have been a dollar sign or something in front of the 6 that she confused for a one and wrote in 160?

A. No. I honestly believe there are very few signs I ever did for anybody that cost $600.

Q. But would you agree that it would be hard to tell from this, there is a number below the 160. Would you agree with that?

A. Yes, sir, I see a little bit right underneath there.

Q. One of those numbers under there appears to be a 6?

A. Yes. This one right here underneath is a 6.

Q. Now, and then the 160 written in ink, is not a part of the carbon, is it?

A. No, sir.
Q. It was just written in on top of —
A. That's where she would go through and add them up.
Q. Okay. Would it be fair to say that you could not -- we cannot look at this today and tell what number was under that before the 160 was?
A. No, it looks like a six un derneath this six.
Q. It does to me? Does it look like to you?
A. Yes, sir, that's all I can tell.
Q. I don't see anything under the one that looks like there was a one there. Would you agree with that?
A. I don't see anything, no, sir.

Q. Okay. Okay. So we don't know whether there was a one there but we can pretty much assume at least one of the numbers there was a six?

A. Yeah.

Q. And we don't know what the rest of the numbers would have been before somebody wrote on top of it?

A. No.

MR. JOHNSON: Okay. That's all I have. Thank you, sir?

THE WITNESS: I believe that's my wife's handwriting is what I say.

MR. JOHNSON: Yes, sir.

MR. MEADOWS: We do move for number to be admitted if I haven't done that al-

ready.

THE COURT: I think we already did that.

MR. MEADOWS: Okay. I have no further questions.

THE COURT: You can step down.

MR. MEADOWS: I would like to call Ms. Johnson.

MS. WILMA JOHNSON, SWORN.

THE CLERK: Have a seat, ma'am. State your name for the record.

THE WITNESS: Wilma Johnson.

THE CLERK: What city and state do you live?

THE WITNESS: Centre, Alabama.

DIRECT EXAMINATION

BY MR. MEADOWS:

Q. Ms. Johnson, I want to show you a receipt book and ask you if you recognize this as one that you --

A. Yes, I do.

Q. And what is that receipt book, please, ma'am?

A. It's for 1998.

Q. And is it for your husband's business?

A. Yes.

Q. What's his name?

A. H. L. Johnson, Henry L.

Q. I want to show you one of the receipts in here. It appears to be the carbon of the actual receipt that was handed -- and there's some carbon parts of it that have Harold Woodall's name on it and a

3/18/98, or 3/16/98 date
on it, but in a different color,
or in an ink pen, $160.
Is that your handwriting?
A. Well, I can't tell for sure
it- could be my
husband's, but we done that so we
would be sure to know
the amount for our taxes.
Q. So if, is it just simply gone
over what was on
the carbon?
A. Yes, yes.
Q. The numbers haven't been
changed?
A. No.
Q. Did you ever change any num-
bers?

A. No.
MR. MEADOWS: Thank you, ma'am, that's all I have.
THE COURT: Cross?
MR. JOHNSON: None, Your Honor.
THE COURT: All right. You can step down. Thank you, ma'am.
Call your next witness.
MR. MEADOWS: Mr. Sims.
MR. ED SIMS, RECALLED
THE CLERK: Mr. Sims, I will remind you that you are still under oath from previously being sworn.
THE WITNESS: Yes, ma'am.
DIRECT EXAMINATION
BY MR. SIMS:
Q. Mr. Sims, I have just a couple questions for you.

In any of the interviews that you had with the defendant in this case, did he ever attempt to tell you the times when Mr. Tillery gave him money and you tell him not to do that, it wasn't important what the dates were?

A. No.

Q. The other question I have is at any time in these interviews, did Mr. Woodall ever tell you that he had given the check to Junior Shaner to have it cashed and that he gave him $600 for — to buy signs with?